IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6235 of 2007()

CRMP.3336/2007 of II ADDL. DISTRICT COURT, PALAKKAD
CRIME NO.154/07 OF WALAYAR POLICE STATION, PALAKKAD
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: PETITIONERS/ACCUSED NO.1 TO 6

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1. ABDULKALAM AZAD,
ALIAS AZAD, AGED 18, S/O BASHEER, PANAMGAD,
KAJIKODE, PALAKKAD.

2. HAKKEEM,
S/O.KAJA HUSSEIN, AGED 20, PANAMGAD,
KAJIKODE, PALAKKAD.

3. MANOJ,
S/O.MURUGAN, AGED 17, REP.BY HIS MOTHER
BHAGYALAKSHMI, W/O MURUGAN, AGED 37,
PANAMGAD, KANJIKODE, PALAKKAD.

4. SUNIL,
S/O.VELAYUDHAN, AGED 19,
PANAMGAD, KANJIKODE,
PALAKKAD.

5. SURESH,
S/O RAJU, AGED 21,
PANDIYATHUPADAM, PANAMGAD, KANJIKODE,
PALAKKAD.

6. BASHEER,
S/O.RAZACK, AGED 45, PANAMGAD, KANJIKODE,
PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP.BY CIRCLE INSPECTOR OF POLICE,
(KASBA POLICE STATION),
WALAYAR POLICE STATION, PALAKKAD.
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6235 of 2007

Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 6. They face allegations for offences punishable, inter alia, under Sections 307 and 324 I.P.C. The alleged incident took place on 22.07.07. Crime has been registered. Investigation is in progress. The crux of the allegations is that the petitioners, who belong to the C.P.M, had attacked the victim - who belong to the V.H.P. Investigation is in progress. A counter case has also been registered. Injuries have been suffered by the petitioners also. Both crimes are being investigated. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are not aggressors, but only victims of aggression. The petitioners have suffered injury. The police had registered both crimes under Section 307 I.P.C. Inclusion of allegation under Section 307 I.P.C in this case is not justified at all. The petitioners may be saved of the trauma of undeserved arrest and incarceration, submits the learned counsel for the petitioner s.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that admittedly an incident had

taken place. Persons on both sides had suffered injuries. Dangerous weapons have been used. Political animosity is the alleged motive. In any view of the matter, the petitioners are not entitled for grant of anticipatory bail, submits the learned Public Prosecutor .

4. I have been taken through the nature of the injuries suffered by both sides. That a counter case has been registered is not disputed. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioners must surrender before the learned Magistrate having jurisdiction or the Investigating Officer and then seek regular bail in the ordinary course. I find no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-